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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,982	12/12/2003	Yuehua Chen	14616	2152

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EXAMINER

TRINH, TAN H

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/734,982

Applicant(s)

CHEN ET AL.

Examiner

TAN TRINH

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 4-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Song (U.S. Pub. No. 20010008523).

Regarding claim 4, Song teaches a method for identifying a primary cell under Site Selective Diversity Transmit (see page 1, section [0004-0006]) comprising the steps of: assigning a temporary identifier by a network system to each cell (see page 1, section [0011]); transmitting an identifier indicating the primary cell periodically by a mobile station to connected cells via up link feedback indication fields (see page 1, sections [0006-0010]); and receiving by the base station, the identifier indicating the primary cell transmitted by the mobile station (see pages 1-2, sections [0004-0014]), if signals received by the base station satisfy with one of following conditions, then the base station considers itself as the **primary cell**, and wherein the conditions are: (see pages 2-3, section [0021]):

A) an identifier code word indicating the primary cell received by the base station is **matched** with the identifier code word of itself; (see page 3, section [0022], since the Song teaches the received primary ID code does **not match** with the identifier code word of itself, the base station is consider a **non- primary cell**, otherwise is matched then consider primary cell).

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B) quality of up link signals received by the base station does not satisfy with a quality threshold, wherein the quality threshold is a parameter defined by the network system (see page 3, section [0023]);

C) bits of dropping of the identifier code word caused by using an up link compression mode excess a value, wherein the value is a maximum integer not larger than $1/3$ length of the identifier code word (see page 3, section [0024]); and

wherein in the condition B), the identifier code word indicating the primary cell received by the base station has a certain matching degree with an ID code word of the cell itself (see page 3, sections [0021-0026]).

Regarding claim 5, Song teaches wherein the matching degree in condition B) is a matching degree P of the identifier code word indicating the primary cell received by the base station and the ID code of the cell is larger than a threshold Plr (see page 5, section [0059]).

Regarding claim 6, Song teaches wherein the threshold Plr in condition (B) is set by a higher system layer (see page 2, section [0014]).

Response to Arguments

3. Applicant's arguments filed 10-31-2005 have been fully considered but they are not persuasive.

Applicant argues that the Song reference does not disclose the base station considers itself as a primary cell if the identification conditions are satisfied, However, the examiner does

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not agree, since the reference of Song teaches the received primary ID code does **not match** with the identifier code word of itself, the base station is consider a **non- primary cell**, otherwise is matched then consider primary cell, that is the same as claimed (see Song page 2-3, sections [0021-0025]).

Applicant also argues that the Song reference does not teach the base station is considered as primary ONLY when it satisfies the condition. However the base station is considered as primary ONLY is not in claim.

Therefore, the Song reference is teaching the limitation of the claims.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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5. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(571) 273-8300, (for Technology Center 2600 only)

*Hand-delivered responses should be brought to the Customer Service Window (now located at the **Randolph Building, 401 Dulany Street, Alexandria, VA 22314**).*

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Trinh whose telephone number is (571) 272-7888. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiners supervisor, Nay Maung, can be reached at (571) 272-7882.

The fax phone number for the organization where this application or proceeding is assigned is **(571) 273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Technology Center 2600 Customer Service Office** whose telephone number is **(703) 306-0377**.

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7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tan H. Trinh
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Jan. 04, 2005

1/6/05

TILAHUN GESESSE
PRIMARY EXAMINER